

MICHIGAN STATE
UNIVERSITY

DATE: June 5, 2018

TO: William J. Malan, Malan Law Office, PC – malanlaw@me.com

FROM: Ellen Armentrout, FOIA Officer and Associate General Counsel
Michigan State University Freedom of Information Act (FOIA) Office

Ellen Armentrout

SUBJECT: FOIA Response

This is written in response to the FOIA request that you emailed to this Office on May 7, 2018, and for which you provided clarification via telephone on May 31st.

Paper records responsive to your request accompany this letter. A suspect's name, date of birth, age, weight, driver's license number, home address, and cellular telephone number have been redacted pursuant to Sections 13(1)(a) and (b)(iii) of the Michigan Freedom of Information Act (MIFOIA). Section 13(1)(a) provides for the withholding of "information of a personal nature if public disclosure of the information would constitute a clearly unwarranted invasion of an individual's privacy." Section 13(1)(b) provides for the withholding of "investigating records compiled for law enforcement purposes, but only to the extent that disclosure as a public record would do any of the following... (iii) constitute an unwarranted invasion of personal privacy." Law Enforcement Information Network (LEIN) data have been redacted pursuant to Section 13(1)(d), which provides for the withholding of "records or information specifically described and exempted from disclosure by statute." LEIN data are protected under MCLA 28.214(5). No fee will be assessed for this processing of your request. No fee will be assessed for this processing of your request.



**FREEDOM OF
INFORMATION ACT
OFFICE**

**Michigan State
University**

408 West Circle Drive
Room 1 Olds Hall
East Lansing, MI 48824
517-353-3929
Fax: 517-353-1794
foia@msu.edu
<http://foia.msu.edu>

The MIFOIA provides that when a public body denies all or a portion of a request, the requester may do one of the following: (1) submit an appeal of the determination to the head of the public body; or (2) commence a civil action in the court of claims to compel the public body's disclosure of the records. If you wish to seek judicial review of any denial, you must do so within 180 days of the date of this letter. If the court of claims orders disclosure of all or a portion of the public record(s) to which you have been denied access, you may receive attorneys' fees and, in certain circumstances, damages under the MIFOIA. Should you choose to file an appeal with the University regarding this response to your request, you must submit a written communication to this Office expressly stating that it is an "appeal" of this response. In your appeal, please state what records you believe should have been disclosed to you. You must also state the reasons you believe any denial of your MIFOIA request should be reversed. This Office will arrange for the processing and review of your appeal.

With regard to the portion of your request for videos, this Office has been advised that there are approximately 45 seconds of body camera video in which Daniel Smigel appears. If you wish to pursue this video, please advise us in writing, and we will proceed accordingly.

Pursuant to Section 4(4) of the MIFOIA, the University's procedures and guidelines for processing MIFOIA requests can be found at <http://foia.msu.edu>.

Attachments

MSUF058218

**MSU - MICHIGAN STATE
UNIVERSITY POLICE
DEPARTMENT
Case Report**



Case No. 1858100990
Case Status Arrest
Report Date/Time: 3/5/2018 5:54:49 PM
Reporting Officer: Heckman, Gary

FILE CLASS/OFFENSE:
48000 - Resisting Officer
73000 - Miscellaneous Arrest

NATURE OF INCIDENT:
4801/Resist & Obstruct and MSU Ordvio 18.01/Smigel/Society/Heckman.

OCCURRED ON: 3/5/2018 5:54:53 PM
(and Between)

VENUE: Farm Ln Mt Hope Rd East Lansing, MI 48824
CITY/TOWNSHIP: 89 - MI State Univ, Ingham

VICTIM:		VICTIM OF: 7399 - 73000 - Miscellaneous Arrest 4801 - 48000 - Resisting Officer VICTIM TYPE: Society/Public	
RACE:	DOB:	AGE:	
HGT:	SEX:	JUV:	
EYES:	WGT:	HAIR:	
SSN:	ETH:	Circumstances:	
ADDRESS INFORMATION:	DLN:	DL State:	
Phone Information:		Emails:	
NOTES:			

ARRESTEE: Smigel, Daniel Ian		ARRESTED FOR: 4801 - 48000 - Resisting Officer 7399 - 73000 - Miscellaneous Arrest ARREST NO: 0004251 TYPE: On-View Arrest DATE: 3/5/2018	
JUV: N - No	DOB: [REDACTED]		
AGE: [REDACTED]	SEX: Male		
RACE: White	HGT: 5' 11"	WGT: [REDACTED]	HAIR: Brown
EYES: Brown	ETH: [REDACTED]	Circumstances:	
SMT:	SSN:	DLN: [REDACTED]	DL State: [REDACTED]
ADDRESS INFORMATION:			
H - Home: [REDACTED]			
Phone Information:		Emails:	
M - Mobile: [REDACTED]			
NOTES:			

PROPERTY:	
STATUS: Evidence (Including Other Seized Property And Tools)	
PROPERTY TYPE: Chemicals	
RECOVERED BY:	
PROPERTY DESCRIPTION: Dragon Fire Pepper spray	
DRUG QUANTITY/MEASURE: /	RECOVERED DATE/TIME:
	COUNT: 1

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Reporting Officer: Heckman, Gary

VALUE:
MANUFACTURER:
SN/VIN:
VEHICLE DESCRIPTION:
NOTES:

COLOR:
MODEL:
LICENSE NO:

PROPERTY:

STATUS: Information Only
PROPERTY TYPE: Other
RECOVERED BY:
PROPERTY DESCRIPTION: CODIS DNA swab for SMIGEL
DRUG QUANTITY/MEASURE: /
VALUE:
MANUFACTURER:
SN/VIN:
VEHICLE DESCRIPTION:
NOTES:

RECOVERED DATE/TIME:

COUNT: 1
COLOR:
MODEL:
LICENSE NO:

**MSU - MICHIGAN STATE
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Case No. 1858100990
Report Date/Time: 3/5/2018 5:54:49 PM
Reporting Officer: Heckman, Gary

NARRATIVE:

Heckman, Gary
3/5/2018 12:00:00 AM
1 count R&O(4801)
1 count Ord Viol Weapons(7399)
1 Victim(Society)
1 Suspect(Smigel)

NATURE OF INCIDENT:

On 03-05-2018 at 1630 hrs I was working the protest area on Farm Lane south of the entrance to Turf Grass Research. The protest was for the Richard Spencer Event. While working in Alpha Platoon, Squad 1 we were to open up Farm Lane so the attendees of the event could get to the Pavilion. The road was being blocked by protestors. I was in full police uniform in riot gear.

OFFICER'S ACTIONS:

I was directly behind Sgt Brandman, who was the Squad Leader. As we entered the crowd I observed Sgt Brandman pull Smigel to the ground and stated he needs to be arrested. Sgt Brandman stated Smigel was spraying people with pepper spray. (See Sgt Brandman's Supplemental) I grabbed Smigel as Sgt Brandman grabbed a hold of another protester who was trying to help Smigel get away. Sgt Brandman was able to point to the Pepper Spray that Smigel had in his possession. It was laying on the ground. I pushed Smigel to the ground. He resisted and was able to push me up from on top of him and get up. I told him to stop resisting and put him back to the ground. Smigel continued to try to get away. He was able to get back to his feet again and continue to pull away from me. I again put him to ground telling him to stop resisting. I also identified myself as the Police several times. Smigel was once again able to get to his feet and continued to fight. I was able to sweep his legs and put him to the ground on his belly and get his arms behind his back. I then hand cuffed him with flex cuffs. I recovered the Pepper Spray. Smigel was taken to the transport van. I asked Smigel several times if he was hurt. He indicated every time that he was not.

LEIN:

LEIN run on Smigel [REDACTED]

EVIDENCE:

I marked and tagged the Pepper Spray into Evidence. It was turned over to Detective Rowley when Smigel was processed.

DISPOSITION:

This report will be sent to the Ingham County Prosecutors Officer for review.
This Incident is Closed to uniform investigation Division.

**MSU - MICHIGAN STATE
UNIVERSITY POLICE
DEPARTMENT
Case Report**



Case No. 1858100990
Report Date/Time: 3/5/2018 5:54:49 PM
Reporting Officer: Heckman, Gary

NARRATIVE:

Brandman, Steven
3/5/2018 9:21:04 PM
INFORMATION

On 03/05/2018 at about 4:30pm, I was working as a Squad Leader for the Richard Spencer Event at MSU. Our squad deployed to Farm Lane near the Pavilion entrance where a crowd of protestors had gathered. We were detailed to assist in maintaining public safety and order during the event as opposing groups had a history of violent contacts at Spencer events.

CONTACT AND ARREST OF SUSPECT SMIGEL

As we approached the area, a crowd of protestors had gathered in and near the roadway as event attendees approached on foot. I could see opposing groups had met and were actively fighting about 20 yards ahead of me. I directed my squad forward and as I got up to the crowd, I observed a white male, (later identified as SMIGEL), dressed all in black, raise his arm and spray what appeared to be defensive repellent spray in the face of a white male directly across from him. The male who had sprayed the repellent started to retreat into the crowd. I grabbed his clothing and pulled him down and told him he was under arrest. He began actively fighting me and tried to get away. During the struggle, he dropped the can of defensive spray on the ground and Officer Heckman came to my assistance.

He continued to actively resist arrest until an LPD Officer assisted and SMIGEL was handcuffed and turned over to Officer Heckman for transport. I picked up the can of pepper spray SMIGEL had dropped and gave it to Officer Heckman.

DISPOSITION

Closed to Uniform Division investigation

**MSU - MICHIGAN STATE
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Case No. 1858100990
Report Date/Time: 3/5/2018 5:54:49 PM
Reporting Officer: Heckman, Gary

NARRATIVE:

Zienta, Sydnee

3/6/2018 2:33:17 AM

NATURE OF SUPPLEMENTAL:

CODIS DNA collection.

DNA COLLECTION

DNA sample was taken on 3/5/2018 by Officer Zienta and Officer Brushaber. SMIGEL was provided with an individual disclosure statement. A DNA collection reimbursement form was completed.

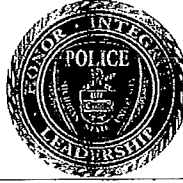
PROPERTY

DNA sample from SMIGEL. This item is in the MSUPD evidence room small locker 22.

STATUS

Closed to Uniform Patrol.

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Case No. 1858100990
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Reporting Officer: Heckman, Gary

NARRATIVE:

Rowley, Anne
3/6/2018 10:19:05 AM

EVIDENCE:

I was assigned in the processing area for the event to assist with processing and evidence. While working the event, I was given a can of pepper spray by Officer Heckman. I photographed (attached to this report) and packaged the pepper spray in an evidence envelope. I transported the envelope to the MSU Police Department and placed it into temporary storage large locker #1.

DISPOSITION OF INCIDENT:

Closed.

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Case No. 1858100990
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Reporting Officer: Heckman, Gary

NARRATIVE:

Johnson, Kelly

3/7/2018 3:56:58 PM

WARRANT ISSUED IN CUSTODY:

On 3-6-18 APA Randy Behrmann authorized a warrant on Daniel Smigel for 2 counts of resist and obstruct a police officer.

VALIDATION:

On 3-6-18 54B District Court Judge Ball validated the warrant.

ARRAIGNMENT:

On 3-6-18 Smigel was arraigned by Judge Ball.

Bond was set at \$2500 cash/surety.

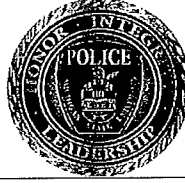
He may not enter onto MSU Campus. He may reside in [REDACTED]

Prelim is scheduled for 3-22-18 at 9am.

DNA RESTITUTION REQUEST:

On 3-8-18 I efiled Smigel's DNA restitution request to ICPO.

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UNIVERSITY POLICE
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Case Report**



Case No. 1858100990
Report Date/Time: 3/5/2018 5:54:49 PM
Reporting Officer: Heckman, Gary

NARRATIVE:

Rowley, Anne

3/26/2018 10:07:46 AM

CODIS/DNA:

On 3-21-18, I delivered Smigel's CODIS/DNA swab to the MSP Forensic Crime Lab in Lansing.



MICHIGAN STATE
UNIVERSITY
POLICE

REQUEST FOR REIMBURSEMENT FOR DNA COLLECTION

Revision 1 - Page 1 of 1

Michigan State University Police Department is requesting \$15 for taking a DNA sample, pursuant to 2014 PA 457, 458, and 459.

Make payable to: **MICHIGAN STATE UNIVERSITY POLICE DEPARTMENT**

First and Middle Name of Defendant	Daniel Ian
Last Name of Defendant	Smigel
Officer Taking Sample	M. Brushaber 636 S Zienta 698
Report Number	1858100490
Date Sample Was Taken	3/6/18
Prosecutor CTN (If known)	
Docket Number (If known)	

RETURN TO PROSECUTOR'S OFFICE WITHIN 3 BUSINESS DAYS IN ORDER TO RECEIVE
REIMBURSEMENT FROM THE COURT

